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Cronan O'Connell
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EX PARTE

June 30, 2003

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street S.W., TW-A325
Washington, DC 20554

RE: CC Docket Nos. 02-33 and 01-337 and CS Docket No. 02-52 -- In the Matter of Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities; In the Matter of Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services

Dear Ms. Dortch:

On Thursday, June 26, 2003, representing Qwest Communications International Inc., Cronan O'Connell, Melissa Newman and Craig Brown met with Daniel Gonzalez, Senior Legal Advisor to Commissioner Kevin Martin.

Qwest reviewed the current vibrant competitive landscape in the mass market, including consumer and small businesses and the subsequent harm of the CEI/ONA rules to Qwest vis-à-vis these competitors, and how they are able to compete without such constraints. As reflected in the attachment, Qwest reviewed its basic DSL offerings to end users, CLECs and ISPs and discussed the fact that even with the relief requested in this proceeding by Qwest, ISPs and CLECs will continue to have multiple alternatives to access the end user.

In accordance with FCC Rule 47 C.F.R. § 1.49(f), this *ex parte* letter and attachment is being filed electronically *via* the FCC's Electronic Comment Filing System for inclusion in the public record of the above-referenced dockets pursuant to FCC Rule 47 § 1.1206(b)(2).

Sincerely,
/s/ Cronan O'Connell

cc:
Daniel Gonzalez (via e-mail at Gonzalez.Daniel@fcc.gov with attachment)

Attachment

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Broadband Exparte
CC Docket 02-33
June 2003

Overview

- **Qwest is not dominant in the provision of mass market broadband services**
- **The Commission should begin to rationalize its regulation of DSL and Cable Modem Services**
  - **Bundled DSL Service should be classified as an information service subject to Title I**
  - **Volume DSL service to ISPs should be offered at the ILEC's option via private carriage**
  - **Eliminate ONA rules which harm Qwest's ability to compete in this market**
- **Open access to ISPs will be offered by Qwest via a tariffed service for a period of two years and generally available contracts thereafter**

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The Qwest DSL Mass Market Summary

- **Mass Market: DSL Services**
  - **Consumer**
    - Occasional users / Gamers / SOHO
  - **Small Business**
- **Over 500,000 DSL subscribers region-wide**
  - **70-80% Consumer**
  - **20-30% Small Business**
- 80% of all Qwest DSL subscribers are sold via ISPs
  - **Volume Discount Models**
    - Voluntarily implemented a Wholesale DSL program for Consumer ISPs
  - **400+ Retail ISPs available to end users through Qwest DSL Host service**

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Qwest is not Dominant in the Provision of Broadband Services in the Mass Market: Mass Market Broadband Penetration* Summary

- **Nationwide (Form 477, FCC Broadband Report, June '02)**
  - 9% Cable Modem
  - 5% DSL (ILEC and CLEC)
  - 2% Fixed Wireless
- **Qwest Region: Residential & SOHO (Claritas '02)**
  - 9.5% Cable Modem
  - 5.3% DSL (ILEC and CLEC)
- **Top MSAs in Qwest Region: Residential & SOHO (Claritas '02)**
  - 11.5% Cable Modem
  - 6.5% DSL (ILEC and CLEC)
  - Includes: Boise City, ID; Denver, CO; Minneapolis-St. Paul, MN; Omaha, NE-IA; Phoenix-Mesa, AZ; Portland, ME; Salt Lake City-Ogden, UT; Seattle-Bellevue-Everett, WA; Tucson, AZ

* Reflects percentage penetration of all households

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ONA Rules Harm Qwest's Ability to Compete

Unnecessary regulations add cost to the business and result in lost business opportunities.

Requirements:	**Results:**
❑ Development and maintenance of BSA/BSE/CNS tariffs. ❑ Filing of ONA reports (annual filing, and quarterly Installation and Maintenance Reports).	❑ Tariffing requirements impede "just say when" business opportunities. ❑ Tariff timeframes foreclose Qwest's ability to change business priorities in response to market demands. ❑ Tariff "One Size Fits All" approach limits Qwest's ability to tailor offerings and business deals to meet customers' specific needs. ❑ Disparity in regulatory requirements affects Qwest's ability to compete in this vibrant marketplace.

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Qwest Proposed Treatment of DSL Services

Commission Declares Bundled DSL Service to be an Information Service subject to Title I, free of ONA obligations.

1. Bundled DSL Service = Qwest DSL + Qwest ISP Service

- Retail product sold to end users

Commission Gives LECs the Option of Providing Bulk DSL Services to ISPs as Private Carriage subject to Title I, free of ONA obligations.

2. Volume DSL Service = DSL wholesale product

- Wholesale DSL service sold to ISPs
- ISPs sell bundle of DSL and Internet directly to end users under their brand name

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Qwest's Proposed Treatment of DSL Services (cont.)

Qwest Continues to Tariff its DSL Service for ISPs for two years.

3. DSL & Host Service = Qwest DSL + access to 400+ ISPs

- **DSL access sold and billed by Qwest to end users**
  - ***End-users*** *may subscribe to the ISP of their choice from a list of 400+ participating ISPs*
  - *Service offered under F.C.C. No 1, Section 8*
- **ISP purchases DSL Host Service from Qwest once per LATA**
  - *DSL Host Service consists of ATM switch port and Bandwidth elements*
  - *Any* **ISP** *may purchase Qwest DSL Host service, resulting in open access to end users*
  - *Tariffed in F.C.C. No. 1, Section 8*
- **Internet access service sold and billed separately by ISP to end users**
  - *Access to Internet content is controlled by the ISP who purchases Qwest DSL Host service*
- **Qwest requests streamlined tariff treatment of this service during the two year period**
- **After the two year period, Qwest will offer this service via generally available contracts**

CLECs Continue to Access UNE Loops to Provide Telecom Services.

4. Raw copper loop = UNE sold to CLEC

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Conclusion

- **ILECs are not dominant in the provision of broadband services**
- **The Commission should should begin to rationalize its regulation between DSL and Cable Modem Services**
  - **Bundled DSL service (#1) should be classified as an information service subject to Title I, free of any ONA obligations.**
  - **Bulk DSL service (#2) may be offered on a private carriage basis, subject to Title I, free of any ONA obligations.**
  - **Qwest DSL Service (#3) will continue to offer ISPs open access on a tariffed basis for two years and thereafter via generally available contracts**
  - **Qwest DSL Services (#2 & #3) will continue to offer end users the means to reach their ISP and Internet content of choice**

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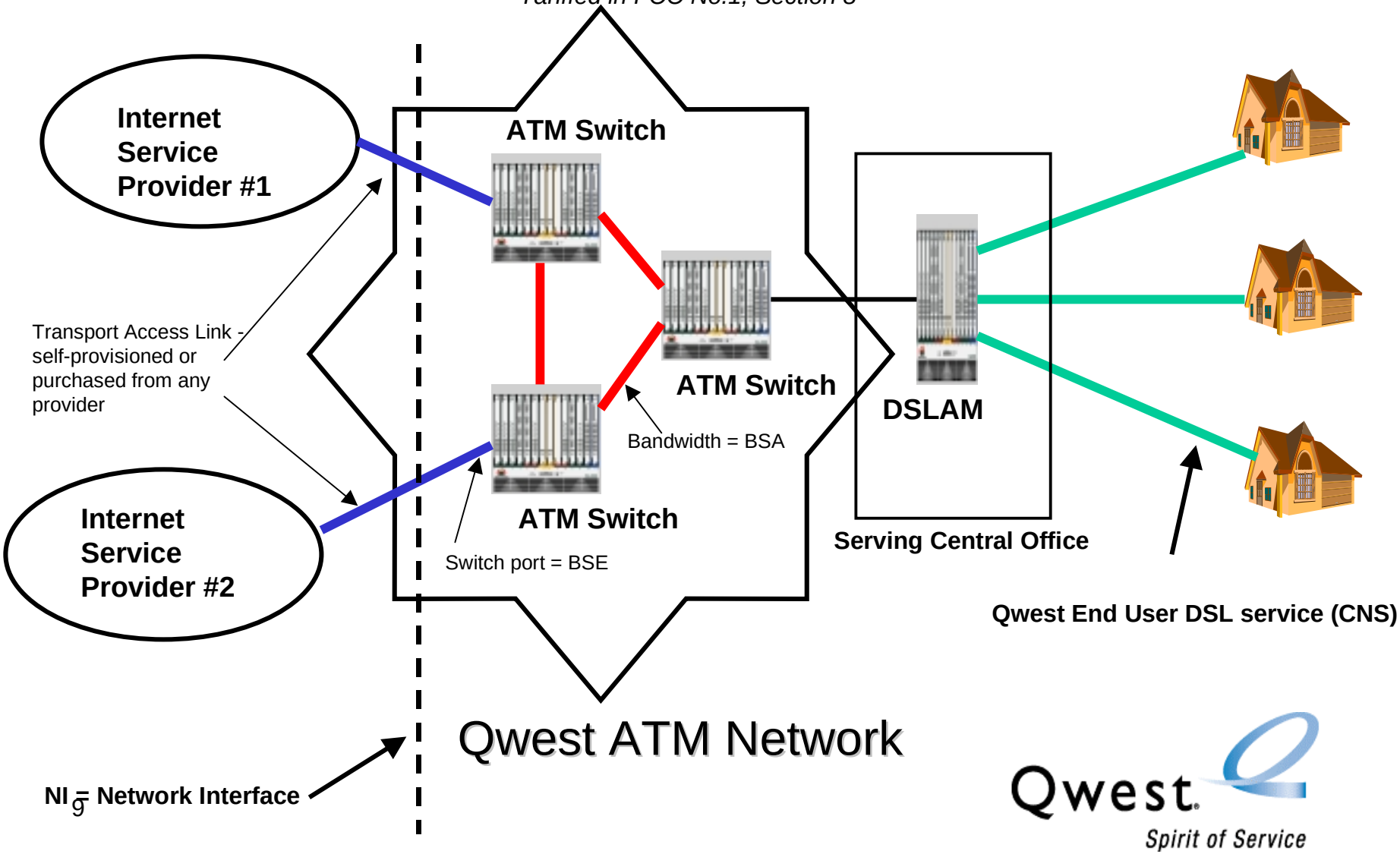
QWEST DSL & QWEST HOST SERVICE

Qwest DSL HOST Service * is purchased once per LATA by an ISP

Service includes: ATM Switch Port (BSE) + Bandwidth (BSA)

***** *Tariffed in FCC No.1, Section 8*



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Current Mass Market Competitive Landscape

There are a variety of competitive strategies to target consumers

CLECs / ISPs / DSL Providers	*Cable Providers*	*Wireless / Satellite Providers*
SPEAKEASY McLeodUSA EarthLink AOL.COM	TIME WARNER CABLE comcast COX COMMUNICATIONS	ricochet high-speed wire-free internet DIRECTV dish NETWORK suburban broadband
• While select CLECs leverage UNE-P and UNE-loop facilities at aggressive discounts to Qwest tariff rates, others pursue a pure UNE-P resale strategy to maximize reach • Within consumer, the market is largely ISPs with DSL offers	• Cable modem is by far the dominant broadband provider within every MSA in our 14-state region • Migration of broadband customers to VoIP as technology matures	• Satellite and wireless providers have a presence in the market

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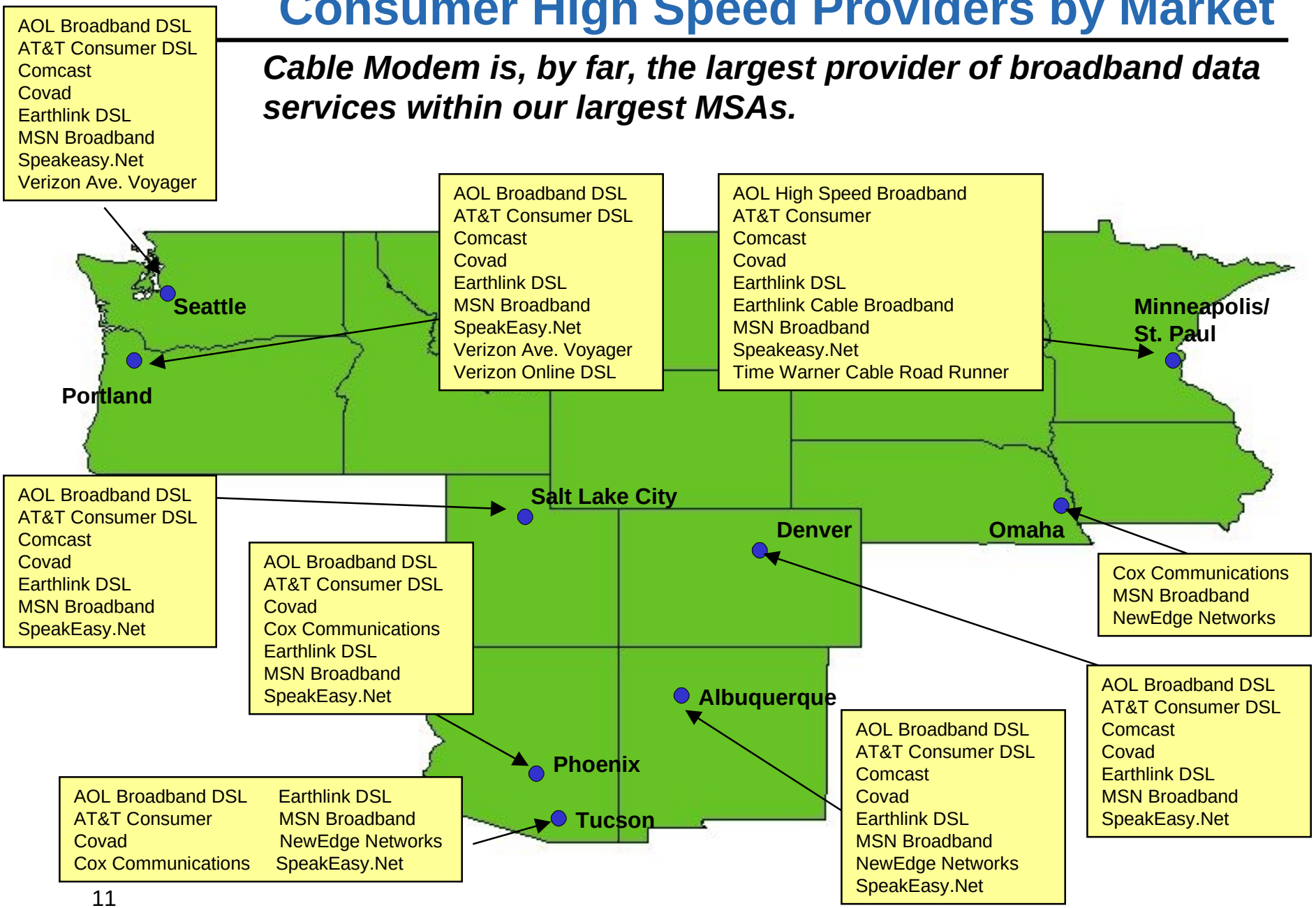
Sources: ARS/Current Analysis National Broadband Database, May 2003

Consumer High Speed Providers by Market

Cable Modem is, by far, the largest provider of broadband data services within our largest MSAs.



Current Mass Market Competitive Landscape

There are a variety of competitive strategies to target small businesses

IXCs

- Leverage current customer relationships to acquire mass market customers
- Offer business lines leveraging network facilities to pursue all SMB customers
- Use unlimited plans to gain LD and local share (WCOM)

CLECs

- CLECs utilize line-sharing and line-splitting strategy to maximize reach
- Pursue customers of all sizes, but are primarily focused on small business customers

CLECs - Integrated Access Providers

- Leverage a UNE-EEL platform to offer integrated access (voice and high speed data)
- Target business customers with more complex telecom needs
- Target price-sensitive stand-alone voice and DSL customers with need for higher bandwidth

Cable Providers

- Focus on entry level broadband business needs
- Use of residential offering to small businesses creates significant price advantage in the market
- Separate business units like Comcast Business and Cox Business focus on mid-tier

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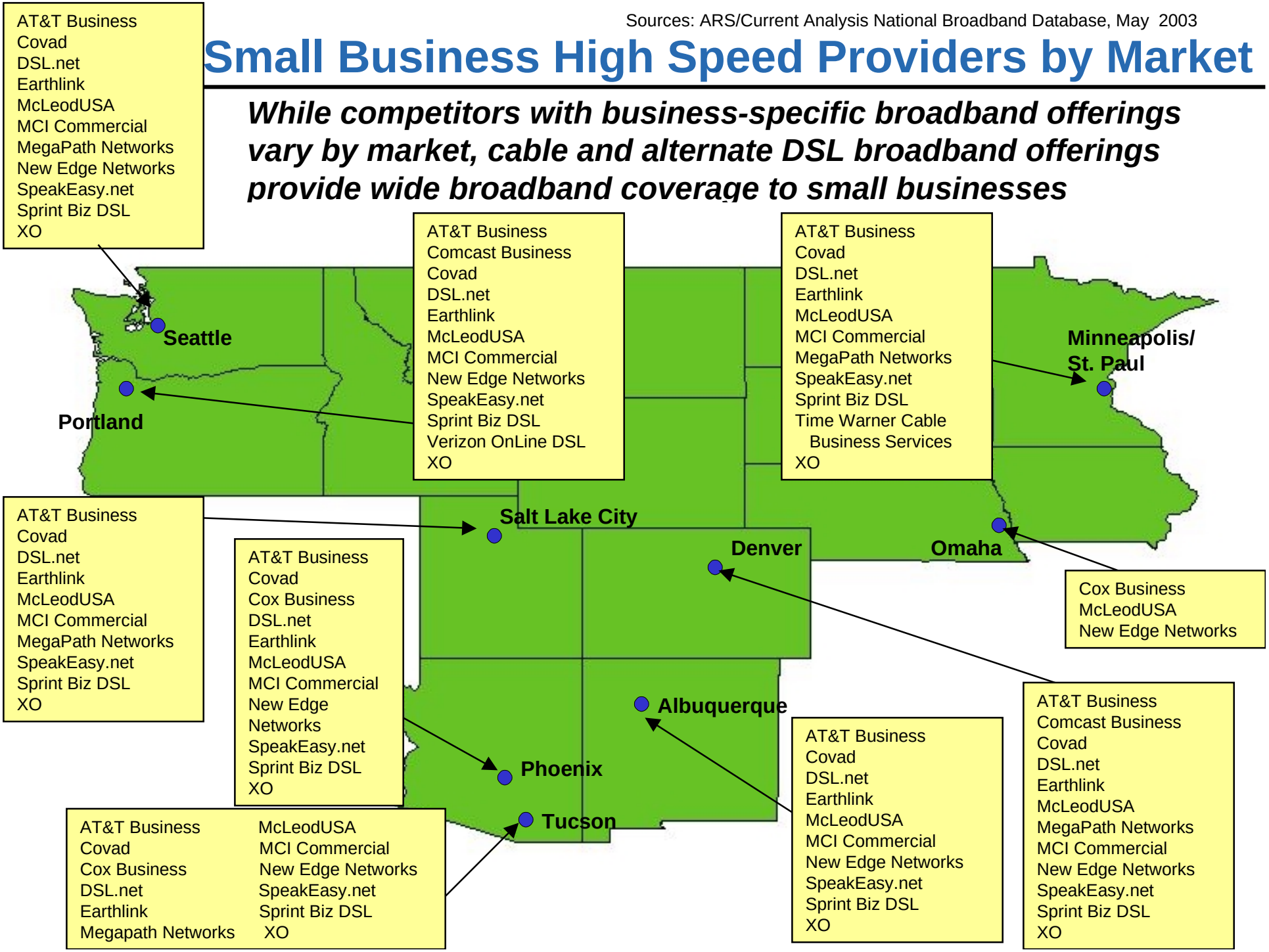
Sources: ARS/Current Analysis National Broadband Database, May 2003

Small Business High Speed Providers by Market

While competitors with business-specific broadband offerings vary by market, cable and alternate DSL broadband offerings provide wide broadband coverage to small businesses